



## Legislation Text

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**File #:** ID 18-0259, **Version:** 1

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Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Estate of Ernest A. Knight, Jr. Located at 1312 Phipps Avenue in Connection with the Yanceyville Street Sidewalk Project

Department: Legal  
Council District: 2

Public Hearing: NA  
Advertising Date/By: NA

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Contact 2 and Phone: John P. Roseboro, Deputy City Attorney, ext. 2320

**PURPOSE:** The City seeks to acquire a proposed Temporary Construction Easement (TCE) of 42 square feet and a proposed Temporary Construction Easement (TCE) of 45 square feet of the property owned by the Estate of Ernest A. Knight, Jr. located at 1312 Phipps Avenue, designated as Parcel No. 0046030 in the Morehead / Gilmer Township for the Yanceyville Street Sidewalk Project. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner.

**BACKGROUND:** PM attempted to negotiate a purchase within the total appraised value of \$100.00 for the property. PM sent an initial written Offer to Purchase to the property owner on April 7, 2017. PM made several attempts to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to the owner giving him at least thirty (30) days' notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The Yanceyville Street Sidewalk Project is to provide pedestrians with a safe walking route between Cone Boulevard and Lee's Chapel Road, where none exist.

The acquisition necessary for this property is a proposed Temporary Construction Easement (TCE) of 42 square feet and a proposed Temporary Construction Easement (TCE) of 45 square feet for the property located at 1312 Phipps Avenue.

The anticipated date for start of construction is November 2018, with an anticipated completion date of July, 2019. The property is zoned R5 (Residential Single Family-5).

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the property to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the property.

**BUDGET IMPACT:** The funding for this eminent domain action is budgeted in Account Number 401-4546-01.6012 Activity #A15138. This is a federally funded project. A minimum of \$100.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

**RECOMMENDATION / ACTION REQUESTED:** City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of the Estate of Ernest A. Knight, Jr. in connection with the Yanceyville Street Sidewalk Project.